

FILED
Date _____
Time _____
Clerk _____
Comm. Amdt. _____

AMENDMENT NO. _____

Signature of Sponsor

AMEND Senate Bill No. 1064*

House Bill No. 1427

by deleting all language after the enacting clause and by substituting instead the following:

Section 1. Tennessee Code Annotated, Title 7, Chapter 52, is amended by adding the following as a new part:

Section 2. Every municipality operating an electric plant, whether pursuant to this chapter or any other public or private act or the provisions of the charter of the municipality, county or metropolitan government, has the power and is authorized, on behalf of its municipality acting through the authorization of the board or supervisory body having responsibility for the municipal electric plant, to acquire, construct, own, improve, operate, lease, maintain, sell, mortgage, pledge or otherwise dispose of any system, plant or equipment for the provision of telephone, telegraph, telecommunications services, or any other like system, plant, or equipment within and/or without the corporate or county limits of such municipality, and, with the consent of such other municipality, within the corporate or county limits of any other municipality, in compliance with Tennessee Code Annotated, Title 65, Chapters 4 and 5, and all other applicable state and federal laws, rules and regulations. A municipality providing any of the services authorized by this section may not dispose of all or substantially all of the system, plant and equipment used to provide such services except upon compliance with the procedures set forth in Tennessee Code Annotated, Section 7-52-132.

Notwithstanding Section 65-4-101(a)(2) or any other provision of this code or of any private act, to the extent that any municipality provides any of the services authorized by this section, such municipality shall be subject to regulation by the Tennessee

77748486

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Regulatory Authority in the same manner and to the same extent as other certificated providers of telecommunications services, including without limitation rules or orders governing anti-competitive practices, and shall be considered as and have the duties of a public utility, as defined in Section 65-4-101, but only to the extent necessary to effect such regulation.

Section 3. A municipality providing any of the services authorized by Section 2 of this act shall not provide subsidies for such services. Notwithstanding the limitations set forth in the preceding sentence, a municipality providing such services shall be authorized to: (a) dedicate a reasonable portion of the electric plant to the provision of such services the costs of which shall be allocated to such services for regulatory purposes; and (b) lend funds, at a rate of interest not less than the highest rate then earned by the municipality on invested electric plant funds, to acquire, construct, and provide working capital for the system, plant, and equipment necessary to provide any of the services authorized under Section 2 of this act, provided, however, that such interest costs shall be allocated to the cost of such services for regulatory purposes.

Section 4. To the extent that it provides any of the services authorized by Section 2 of this act, a municipality shall have all the powers, obligations and authority granted entities providing telecommunications services under applicable laws of the United States or the state of Tennessee. To the extent that such authority and powers do not conflict with the provisions of Tennessee Code Annotated, Title 65, Chapters 4 or 5, and any rules, regulations, or orders issued thereunder, a municipality providing any

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of the services authorized by Section 2 of this act shall have all the authority and powers with respect to such services as are enumerated in Tennessee Code Annotated, Title 7, Chapter 52.

Section 5. A municipality providing any of the services authorized by Section 2 of this act shall make tax equivalent payments with respect to such services in the manner established for electric systems under Tennessee Code Annotated, Title 7, Chapter 52, Part 3. For purposes of the calculation of such tax equivalent payments only, the system, plant, and equipment used to provide such services shall be considered an electric plant, and the revenues received from such services shall be considered operating revenues. For regulatory purposes, a municipality shall allocate to the costs of any services authorized by Section 2 of this act an amount equal to a reasonable determination of the state, local, and federal taxes which would be required to be paid for each fiscal year by a non-governmental corporation that provides the identical services.

Section 6. For regulatory purposes, a municipality shall allocate to the costs of providing any of the services authorized by Section 2 of this act : (a) an amount for attachments to poles owned by the municipality equal to the highest rate charged by the municipality to any other person or entity for comparable pole attachments, and (b) any applicable rights-of-way fees, rentals, charges, or payments required by state or local law of a nongovernmental corporation that provides the identical services.

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Section 7. Tennessee Code Annotated, Section 7-52-117(d), is amended by deleting the words and figures "or in counties that have adopted a metropolitan government, not to exceed two thousand dollars (\$2,000)".

Section 8. Tennessee Code Annotated, Section 7-52-102(10), is amended by inserting the language "metropolitan government," between the words "county," and "incorporated".

Section 9. Notwithstanding the authorization granted in Section 4 hereof, a municipal electric system shall not provide any of the services authorized by Section 2 of this act unrelated to its electric services within the service area of an existing telephone cooperative with fewer than one hundred thousand (100,000) total lines organized and operating under the provisions of Tennessee Code Annotated, Section 65-29-101, et seq., and therefore shall adhere to those regulations of the 1995 Tennessee Telecommunications Act and Rules of the Tennessee regulatory authority, which are applicable to the telephone cooperatives, and specifically Tennessee Code Annotated, Sections 65-4-101 and 65-29-130.

Section 10. Nothing in this act shall be construed to allow a municipality to provide any service for which a license, certification, or registration is required under Tennessee Code Annotated, Title 62, Chapter 32, Part 3.

Section 11. This act supersedes any conflicting provisions of general law, private act, charter or metropolitan charter provisions.

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Section 12. If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to that end the provisions of this act are declared to be severable.

Section 13. This act shall take effect upon becoming a law, the public welfare requiring it.

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